



Electronic Product Recycling

Overview of the Rule-Making Process

The Administrative Procedure Act (RCW 34.05) is the Washington Law that prescribes the process for agencies to adopt, amend, or repeal administrative rules. The law describes steps agencies must follow. Most rules that The Department of Ecology (Ecology) adopts, including the rules related to the Electronic Product Recycling Program, are significant legislative rules.

RCW 34.05.328(5)(c)(iii) A "significant legislative rule" is a rule other than a procedural or interpretive rule that (A) adopts substantive provisions of law pursuant to delegated legislative authority, the violation of which subjects a violator of such rule to a penalty or sanction; (B) establishes, alters, or revokes any qualification or standard for the issuance, suspension, or revocation of a license or permit; or (C) adopts a new, or makes significant amendments to, a policy or regulatory program.

The first official step in the rule-making process is to file a "Pre-proposal Statement of Inquiry" (CR-101) form. Ecology filed this on May 5, 2006 for Phase One of the rule making. This form announces that Ecology is beginning a rule making related to Electronic Product Recycling, invites participation, and informs interested parties about the content of the possible rule. The CR-101 form is published in the *Washington State Register* (published by the Office of the Code Reviser) and posted on Ecology's web site. Ecology must wait a minimum of 30 days from publication before we can file a rule proposal containing draft language with the Office of the Code Reviser.

Once the CR-101 is filed Ecology began to work on draft language for the rule and to meet with the Electronic Product Recycling Advisory Panel. With comments received from the Panel Ecology will finalize our rule proposal package. We then will file a Proposed Rule Making form (CR-102). This form: announces the opportunity to submit written and verbal comments; provides a deadline for when comments must be received by the agency; announces the opportunity to attend public hearings including locations and times; includes proposed rule language, a Small Business Economic Impact Statement; and announces that a preliminary Cost-Benefit Analysis is available for review. The CR-102 is also published in the *Washington State Register* and posted on Ecology's web site. Ecology must wait 20 days from publication before the first public hearing can be held. In addition, if Ecology moves forward with adoption it must be done within 180 days of publication of the CR-102.

After the close of the comment period the agency is required under the APA to prepare several documents including:

- A final cost-benefit analysis that demonstrates that the "probable benefits of the rule are greater than its probable costs, taking into account both the qualitative and quantitative benefits and costs and the specific directives of the statute being implemented" (RCW 34.05.328).
- A determination that the rule is the least burdensome alternative
- A Concise Explanatory Statement: that includes the agency's response to comments, describes any changes from the proposal to the final version of the rule, describes public

outreach activities, and provides background information related to the rule making process.

- Implementation Plan
- Rule File including supporting information used during rule making

The last step in the rule-making process is formal adoption of the rule. Rule adoptions in Washington are filed using the Order of Rule Making form (CR-103). This is filed with the Office of the Code Reviser after the Director reviews and signs the rule package. This package is also posted on Ecology's web site. A rule takes effect 31 days after filing with the Office of the Code Reviser.

ELECTRONIC PRODUCT RECYCLING ADVISORY PANEL

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Manufacturer		Environmental Department Corporation of North America Hall Road 23	9 (4940 FAX)	panasonic.com
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Manufacturer		Electronics of the Americas Pacific Rim Blvd. Hington 98607	7 0	com
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al NGOs		Citizens for Resource Environmental Council	0 3 x208	tenotwashington.org ects.org
recycler		n 96 98124	3	reclaim.com
gement		nd View Dr. NE 06	6	ncast.net